

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 27296

PERMIT 19061

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE

WHEREAS:

1. Permit 19061 was issued to Foss Valley Wine Company, and William H. Hill on December 9, 1983 pursuant to Application 27296.
2. Permit 19061 was subsequently assigned to Atlas Peak Vineyards.
3. A petition for extension of time has been filed with the State Water Resources Control Board.
4. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 8 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 31, 1996

(0000008)

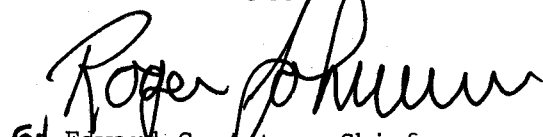
2. Condition 9 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 1998

(0000009)

Dated: JULY 06 1993


Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER

APPLICATION 27296

PERMIT 19061

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE

WHEREAS:

1. Permit 19061 was issued to Foss Valley Wine Company and William H. Hill on December 9, 1983 pursuant to Application 27296.
2. Permit 19061 was subsequently assigned to Whitbread of California.
3. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
4. The permittee has proceeded with diligence and good cause has been shown for the extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 8 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE


December 31, 1992 (0000008)

2. Condition 9 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 1993 (0000009)

Dated: JUNE 05 1989


Walter G. Pettit, Chief
Division of Water Rights

ORDER

LICENSE _____

WR 133 (2-83)

Permit 19061 (Application 27296)

2. Condition 12 of the permit be amended to read:

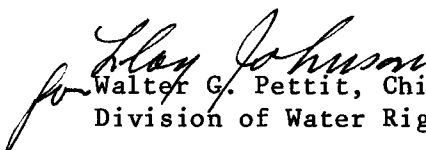
Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated: **SEPTEMBER 23 1988**


Walter G. Pettit, Chief
Division of Water Rights

STATE OF CALIFORNIA
~~THE RESOURCES AGENCY~~
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 19061

Application 27296 of Foss Valley Wine Co. (A California General Partnership) and William H. Hill *duen*
P. O. Box 3989, Napa, California 94558

filed on April 19, 1982, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

(1) Unnamed Stream

Rector Creek thence

Conn Creek thence

Napa River

(2) Milliken Creek

Napa River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
<u>Storage</u>					
<u>(1) North 250 feet and West 1,200 feet from SE corner of Section 22</u>	<u>SE$\frac{1}{4}$ of SE$\frac{1}{4}$</u>	<u>22</u>	<u>7N</u>	<u>4W</u>	<u>MD</u>
<u>Diversion To Offstream Storage</u>					
<u>(2) North 1,550 feet and West 100 feet from SE corner of Section 26</u>	<u>NE$\frac{1}{4}$ of SE$\frac{1}{4}$</u>	<u>26</u>	<u>7N</u>	<u>4W</u>	<u>MD</u>

County of Napa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
<u>Recreational</u>	<u>Foss Valley Reservoir #5</u> <u>In SE$\frac{1}{4}$ of SE$\frac{1}{4}$</u>	<u>22</u>	<u>7N</u>	<u>4W</u>	<u>MD</u>	
<u>Heat Protection</u>						
<u>Frost Protection</u>						
<u>Irrigation</u>	<u>SE$\frac{1}{4}$ of SE$\frac{1}{4}$</u>	<u>22</u>	<u>7N</u>	<u>4W</u>	<u>MD</u>	<u>37</u>
	<u>S$\frac{1}{2}$</u>	<u>23</u>	<u>7N</u>	<u>4W</u>	<u>MD</u>	<u>131</u>
	<u>NW$\frac{1}{4}$ of SW$\frac{1}{4}$</u>	<u>25</u>	<u>7N</u>	<u>4W</u>	<u>MD</u>	<u>15</u>
		<u>26</u>	<u>7N</u>	<u>4W</u>	<u>MD</u>	<u>372</u>
	<u>NE$\frac{1}{4}$</u>	<u>27</u>	<u>7N</u>	<u>4W</u>	<u>MD</u>	<u>145</u>
					<u>Total</u>	<u>700</u>

The place of use is shown on map filed with the State Water Resources Control Board.

10001

General Manager, A. J. ...
California ...

P. O. Box 100, ...

April 19, 1982

(1) ...

(2) ...

Section

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Division ...

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P 19061

9-5-84 Asgd to William Hill Wine Company, a Calif.
General Partnership

11-19-86 Asgd to Whitbread of California

3-17-88 asgd to Atlas Real Vineyards;

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 49 acre-feet per annum to be collected from October 15 of each year to April 30 of the succeeding year.

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

The maximum rate of diversion to offstream storage shall not exceed 10 cubic feet per second. (000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted; this permit may be revoked. (000007)

8. Construction work shall be completed by December 1, 1986. (000008)

9. Complete application of the water to the authorized use shall be made by December 1, 1987. (000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (000011)

12. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable methods of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation. (000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (000013)

14. The State Water Resources Control Board reserves jurisdiction over this permit to impose any appropriate conditions at some future date to conform the permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (000020)

15. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction permittee shall file a report pursuant to Water Code Section 13260 and shall comply with any waste discharge requirements imposed by the California Regional Water Quality Control Board, San Francisco Bay Region, or by the State Water Resources Control Board.

Failure of permittee to comply with this term will subject the permit to revocation, after opportunity for hearing.

(0000100)

16. The archeological sites identified as 80-22-10 and 80-22-11 in the Archeological Reconnaissance Reports for Applications 27295 and 27296 shall be excluded from the proposed place of use. No impacts relating to the water developments proposed under these applications will be allowed on these sites.

(0380500)

17. Permittee shall comply with the following provisions which are derived from the agreement between permittee and City of Napa executed on June 21, 1983 on file with the State Water Resources Control Board. The following provisions³⁰⁰ apply to this permit and to the permit issued on companion Application 27295:

1. Permittee shall install and maintain outlet pipes of at least 18-inches in diameter in its dams as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoirs which is not authorized for appropriation, or diverted or regulated for riparian uses, may be released. 43

2. Permittee shall install and maintain in each of its reservoirs a staff gage meeting the approval of the State Water Resources Control Board for the purpose of determining water levels in the reservoirs. 47

Permittee shall supply a staff gage reading for each reservoir for on or about October 15 of each year, verified by the City of Napa, to the State Water Resources Control Board.

3. Permittee shall install measuring devices, satisfactory to the City of Napa and the State Water Resources Control Board, at its points of diversion to storage and points of withdrawal from storage, to provide the following information: (1) the amounts of water diverted to storage in each of permittee's reservoirs; and (2) the amounts of water withdrawn from storage for beneficial use. 46

4. Permittee shall install and maintain facilities of adequate capacity at its Rector Creek reservoir to enable it to return and release into Milliken Creek, when required to do so hereunder, water diverted from that Creek and transported for storage in the Rector Creek reservoir. 400

5. For each period indicated, permittee shall maintain records of the following measurements and shall provide them to the City of Napa by the tenth of each month following the month for which they were recorded:

- a) Staff gage readings at each reservoir for on or about the last day of each month; October 1 - April 30. 47
- b) Amounts diverted to storage; October 15 - April 30.
- c) Amounts withdrawn from water stored during the current storage season; March 1 - April 30
- d) Amounts diverted from the Milliken Creek watershed and/or reservoirs to the Rector Creek watershed and/or reservoir; October 15 - April 30.
- e) Amounts withdrawn from carryover storage; October 15 - April 30.

6. Upon twenty-four hours notice to the other party, each party shall have reasonable access to the reservoirs and points of diversion of the other party for the purposes of reading staff gages and measuring devices. 47

7. Permittee shall not withdraw for use any water impounded in its reservoirs from October 15 to March 1 of the current storage season until the City of Napa's prior vested rights and its obligations under License 5208 and Permit 18448 are fully satisfied pursuant to paragraphs 8 through 11 hereof.

8. Upon request by the City of Napa, permittee shall release from its reservoirs the following amounts of water:

a) When, on the last day of the month preceding the request, the water surface elevation of Lake Milliken was at or below 873 feet, an amount which, when combined with the amount of inflow to Lake Milliken during that preceding month, would have been produced by a .5 cfs continuous flow measured at the Lake Milliken gage, provided, however, that permittee shall not be required to release water impounded prior to the first day of the preceding month. 61

b) When, on the last day of the month preceding the request, the water surface elevation of Lake Milliken was above 873 feet, an amount which, when combined with the inflow to Lake Milliken during the preceding month, would have been produced by a 5 cfs continuous flow measured at the Lake Milliken gage, provided, however, that permittee shall not be required to release water impounded prior to the first day of the preceding month.

9. Upon request by the City of Napa, permittee shall release from its reservoirs an amount of water which, when measured at the Lake Milliken gage, is equal to the amounts of water withdrawn from storage and released by the City of Napa from Lake Milliken during the preceding month for redirection at its diversion dam downstream, provided, however, that permittee shall not be required to release water impounded prior to the first day of the preceding month. 400

10. If on March 31 of any year, Lake Milliken has not spilled, upon request by the City of Napa, permittee shall release from its reservoirs an amount of water sufficient to fill Lake Milliken up to the amount of water which permittee has in storage as of March 1, less any carryover storage. 400

11. All releases provided for in paragraphs 8, 9, and 10 above shall, except by prior agreement of the parties to the contrary, be made by the fifteenth of the month and shall be made at the maximum practicable rate. Permittee shall notify the City of Napa at least twelve hours in advance of the timing of such releases. 300

12. Because of the unknown magnitude of conveyance and related losses in the reach of the stream between permittee's point(s) of release and the City of Napa's Milliken Reservoir, the parties agree to study the timing, rates, and amount of releases made by permittee pursuant to this agreement, in order to identify more precisely the amounts required to be released by permittee in order to satisfy the prior rights of the City. Until such time as alternate or different release formulas may be agreed upon by the parties hereto, all amounts of water released shall be equivalent to water measured at the Milliken Lake gage. 300

Inclusion in this permit of certain provisions of this agreement shall not be construed as disapproval of other provisions of the agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit. (0000300)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: DECEMBER 9 1983

STATE WATER RESOURCES CONTROL BOARD

Raymond Wash

Chief, Division of Water Rights